



15 JUL 2003

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In re Application of:
Carlsson et al. :
Application No.: 09/868,526 : DECISION
PCT No.: PCT/SE99/02311 :
Int. Filing Date: 10 December 1999 : UNDER
Priority Date: 22 December 1998 :
Atty. Docket No.: CU-2571 : 37 CFR 1.47
For: Tool Handle :
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This is in response to the "Renewed Petition Under 37 CFR 1.47" filed on 16 December 2002.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Petitioner has already satisfied requirements (1) and (3).

Regarding requirement (2), the evidence presently of record, including the statement by Marten Akerman and the "Mottagningsbevis" documents accompanying the renewed petition, satisfactorily establishes that non-signing joint inventor Mr. Chalas refused to sign the declaration after being provided with a declaration and a copy of the international application. Therefore, requirement (2) has now been satisfied.

Regarding requirement (4), petitioner states that "In the declaration filed April 15, 2002, it is absolutely clear that Stephan Carlsson signed only on his behalf and that the Assignee has signed on behalf of Jack Chalas." Petitioner's attention is drawn to the first sentence of 37 CFR 1.47(a), which states that "If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor." Thus, the regulation permits relief where the application is made by the other inventor on behalf of himself and the nonsigning inventor, but no provision for relief is made where the "other inventor" has made application on his own behalf and an assignee seeks to make application on behalf of the non-signing joint inventor (but *see* 37 CFR 1.47(b)). As petitioner has unambiguously stated that Mr. Carlsson

did not make application on behalf of himself and Mr. Chalas, it would not be appropriate to accept the declaration filed on 15 April 2002.

For the reasons discussed above, it not would be appropriate to grant the requested relief on the basis of the present record.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Applicant is required to file either (1) an oath or declaration executed by the missing inventor and the legal representative of the deceased inventor and a request under 37 CFR 1.42, or (2) an oath or declaration executed by the legal representative of the deceased inventor on behalf of both the deceased inventor and the missing inventor, a request under 37 CFR 1.42, and a renewed request under 37 CFR 1.47. .

Applicant is advised that, effective May 1, 2003, the Office has changed its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


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